

109 CMR 11.00: CLIENT MEDICAL CARE AND TREATMENT

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11.01: Purpose and Scope

To establish regulations which will serve to give guidance to Department and Provider employees to assure that the medical needs of clients are met.

11.02: Applicability

109 CMR 11.00 is applicable to all Department employees and all Provider employees who are under contract to provide services to department clients.

11.03: Definitions

Client means a child placed in the Department's custody through court order under the provisions of M.G.L. c. 119, §§ 58 or 83.

Commissioner means the Commissioner of the Department of Youth Services.

Department means the Department of Youth Services.

Designee means any Department employee designated by means of a written memorandum, bearing the written approval of the Commissioner or Deputy Commissioner.

Detained Youth means a child between seven and 17 years of age held by the court for further examination, trial or continuance, or for indictment and trial under the provisions of M.G.L. c. 119, §§ 73 through 83, or to prosecute an appeal to a juvenile appeals session, if unable to furnish bail, shall be committed by the court to the care of the Department.

11.03: continued

Electroconvulsive treatment or ECT means a process that passes a controlled electric current into the brain to induce a seizure.

Emergency Medical Care means a situation where the failure to take immediate action would place a child at substantial risk of imminent death, or serious emotional or physical injury.

Extraordinary Medical Treatment shall include No-code orders, sterilization, electroconvulsive treatment, withholding or providing life-prolonging treatment (as defined in 109 CMR 11.00), and any other treatment determined to be extraordinary by using the following analysis:

Recognizing that it is impossible to itemize every extraordinary medical treatment, the Department shall utilize the following factors to determine whether a medical treatment is extraordinary:

Complexity, risk and novelty of the proposed treatment: The more complex the treatment, the greater the risk of death or serious complications, the more experimental the procedure, the greater the need to determine that the treatment is extraordinary, and to obtain parental consent or to seek judicial approval prior to authorizing treatment.

Routine Medical Care means any medical treatment in which the client is not at substantial risk of harm if the procedure is initiated.

11.04: Emergency Medical Care

(1) Medical Emergency means a situation where the failure to take immediate action would place a child at substantial risk of imminent death, or serious emotional or physical injury. Examples may include:

- (a) severe, profuse bleeding
- (b) choking, blocked airway
- (c) unconsciousness
- (d) cardiac arrest
- (e) cardiovascular accident
- (f) any fracture
- (g) extensive burns
- (h) severe cuts
- (i) other similar severe injury
- (j) other sudden signs of serious physical illness
- (k) any condition where delay in treatment will endanger the life, limb or mental well being of the patient.

(2) Possibility that a disease may deteriorate to an irreversible condition at an uncertain but relatively distant date is not an emergency. In determining whether a medical emergency exists the relevant time period to be examined begins when the claimed emergency arises, and ends when the individual who seeks to act in the emergency could, with reasonable diligence, obtain parental consent or judicial review, as applicable.

(3) When there is a medical emergency, as determined by any medical provider, no one's consent is required in order to allow a client to receive necessary medical care.

11.05: Routine Medical Care

(1) Routine medical care may include but is not limited to the following:

- (a) Allergy Treatment
- (b) Blood Pressure Test
- (c) Comprehensive Physical Examination documenting the finding of an unclothed physical examination including a complete system review pertinent to the age of the child, fundoscopic examination of the eyes and observation of the teeth and gums.
- (d) Dental Care - routine examination, prophylactic treatment, and all restorations except when use of general anesthesia is required.
- (e) Diseases dangerous to the public health
- (f) Drug dependency treatment.
- (g) Fractures, treatment of

11.05: continued

- (h) Hearing Test.
- (i) Immunization - against diphtheria, pertussis, tetanus, measles, poliomyelitis, mumps, rubella and such other communicable diseases as may be specified from time to time by the Department of Public Health per the school immunization requirements.
- (j) Non-Invasive Laboratory tests and special medical studies--when determined by the examining physician to be necessary.
- (k) Lead Poisoning Test
- (l) Nutritional Status Assessment -- the evaluation of the client's nutritional health in light of dietary practice and the entire health assessment (that is, history, physical examination, height and weight measurements, and the laboratory tests) and documentation of any nutritional disturbance of normal function.
- (m) Pelvic Examination.
- (n) Pregnancy Treatment -- except abortion or sterilization.
- (o) Preventive health services.
- (p) Treatment -- commonly prescribed for a specific physical illness, when treatment does not pose risks of permanent serious side effects or risk of death or is determined not to be extraordinary medical treatment by using the analysis outlined in 109 CMR 11.00.
- (q) Tubercular skin test and follow-up diagnostic tests and treatment as indicated.
- (r) Sexually Transmitted diseases.
- (s) Vision Test.

(2) Consent. Consent to routine medical care may be given by either the client solely, the client and the parent or guardian, or the client and Department.

11.06: Pregnancy

(1) Consent by client - A client who is pregnant or believes herself to be pregnant may give consent to her own medical and dental care (except abortion or sterilization). The consent of the Department is not necessary to authorize medical or dental care for any such client.

11.07: Abortion

(1) Consent by a Client.

- (a) If a minor is pregnant both the client and both of her parents must consent to an abortion, or she must obtain prior judicial approval pursuant to M.G.L. c. 112, § 125.
- (b) If one of the pregnant minor's parents has died or is unavailable to give consent within a reasonable time, consent of the remaining parent shall be sufficient.
- (c) If both parents have died or are otherwise unavailable to consent within a reasonable time, and in a reasonable manner, consent of the client's guardian or guardians shall be sufficient.
- (d) If the pregnant client's parents are divorced, consent of the parent having custody shall be sufficient.
- (e) If one or both of the pregnant client's parents or guardians refuse to consent to the performance of an abortion or if the client elects not to seek the consent of one or both of her parents or guardians, the client's must seek authorization for an abortion from a judge of the Superior Court, pursuant to M.G.L. c. 112, § 125.
- (f) The Department shall never consent to an abortion.

11.08: Drug Dependency

(1) Consent by a Client. A client 12 years of age or older who is found to be drug dependent by a physician may give his/her consent to the furnishing of hospital and medical care related to the diagnosis or treatment of such drug dependency. The consent of the parent or guardian is not necessary to authorize hospital or medical care related to drug dependency of any client. (M.G.L. c. 112)

11.09: Diseases Dangerous to the Public Health

(1) Diseases dangerous to the public health means the following:

11.09: continued

- (a) Actinomycosis
- (b) AIDS (Acquired Immune Deficiency Syndrome)
- (c) Animal Bite
- (d) Anthrax
- (e) ARC (Aids Related Complex)
- (f) Brucellosis (Undulant Fever)
- (g) Chickenpox (Varicella)
- (h) Cholera
- (i) Diarrhea of the Newborn
- (j) Diphtheria
- (k) Dysentery, Amebic
- (l) Dysentery, Bacillary (Shigellosis)
- (m) Encephalitis (specify if known)
- (n) Food Poisoning by:
 - 1. Botulism
 - 2. Mushrooms and other poisonous vegetable and animal products
 - 3. Mineral or organic poisons such as arsenic, lead, etc.
 - 4. Staphylococcal
- (o) German Measles (Rubella)
- (p) Glanders
- (q) Hepatitis, Viral (includes Hepatitis A, Hepatitis B and Non A-Non B).
- (r) Leprosy
- (s) Leptospirosis (including Weil's Disease)
- (t) Lymphocytic Choriomeningitis
- (u) Malaria
- (v) Measles (Rubeola)
- (w) Meningitis (B, Influenzal, meningococcal, pneumococcal, streptococcal forms)
- (x) Mumps
- (y) Plague
- (z) Poliomyelitis
- (aa) Psittacosis
- (bb) Rabies - Human
- (cc) Rickettsialpox
- (dd) Rocky Mountain Spotted Fever
- (ee) Salmonellosis (except Typhi and Paratyphi)
- (ff) Salmonellosis: Typhi and Paratyphi (Typhoid and Paratyphoid Fever)
- (gg) Smallpox (Variola)
- (hh) Smallpox Vaccination Reactions -- Generalized Vaccinia, Eczema Vaccinatum
- (ii) Streptococcal Infections (including Erysipelas Scarlet Fever, Streptococcal Sore Throat, etc.)
- (jj) Tetanus
- (kk) Trachoma
- (ll) Trichinosis
- (mm) Tuberculosis
- (nn) Tularemia
- (oo) Typhoid Fever (including Brills' Disease)
- (pp) Whooping Cough (pertussis)
- (qq) Yellow Fever

(2) Consent by Client. Consent for treatment of Diseases Dangerous to the Public Health may be given by either the client solely, the client and parent or guardian, or the client and the Department. Client's who refuse treatment for these diseases, shall be subject to court proceedings to force treatment.

11.10: Sexually Transmitted Diseases (STD)

- (1) Sexually transmitted diseases means the following:
- (a) Chancroid
 - (b) Chlamydia
 - (c) Gonorrhea

11.10: continued

- (d) Lymphogranulom Venereum
- (e) Syphilis
- (f) Others as defined by the Massachusetts Department of Public Health.

(2) Consent by client. If any client reasonably believes himself or herself to be suffering from or to have come in contact with any sexually transmitted disease, such client may consent to his or her own medical care related to the diagnosis or treatment of such disease. The consent of the Department, parent or guardian is not necessary to authorize medical care related to the diagnosis or treatment of sexually transmitted diseases for any client.

11.11: Sterilization

No Consent by Department. Department staff shall not consent to the sterilization of any client.

11.12: "No Code" Orders

(1) "No code" means a medical order regarding a terminally ill patient directing a hospital and its staff not to use heroic medical efforts in the event of cardiac or respiratory failure. Heroic medical efforts include invasive and traumatic life-saving techniques such as intracardial medication, intracardial massage and electric shock treatment. "No code" orders include "do not resuscitate" orders or orders stated in different language attempting to accomplish substantially the same result as a "no code" order.

(2) No Consent by Department. Department staff shall not consent to the entry of a "no code" order for any client.

(3) Consent by Parent. With respect to a client, the right to consent or to refuse to consent to the entry of a "no code" order shall remain with the client's parents, unless otherwise limited by court order.

11.13: Life-Prolonging Medical Treatment

(1) Life-prolonging medical treatment, as distinguished from life-saving treatment, means intrusive medical treatment where there is no prospect of recovery. Recovery does not mean the ability to remain alive but rather life without intolerable suffering.

(2) No Consent by Department. Department staff shall not consent to the giving or withholding of life-prolonging medical treatment for any client.

(3) Consent by Parents or Court. With respect to a client the right to consent or to refuse to consent to the giving or withholding of life-prolonging medical treatment shall remain with the client's parents or guardian unless otherwise limited by statute or court order.

11.14: Antipsychotic Drug

(1) Antipsychotic drugs shall mean drugs which are used in treating psychoses. Antipsychotic drugs include the below-listed drugs by whatever official name, common or usual name, chemical name or brand name by which they may be designated. All isomers, esters, ethers, salts of, or any combination of, drugs listed below are deemed to be antipsychotic drugs. Such antipsychotic shall include, but shall not be limited to:

11.14: continued

<u>Generic Name</u>	<u>Trade Name</u>
Acetophenazine	Trindal
Butaperazine	Repoise
Carphenazine	Proketazine
Chlorpromazine	Thorazine
Chlorprothizene	Taaractan
Fluphenazine	Prolixin
Haloperidol	Haldol
Loxapine	Loxitane
Mesoridazine	Serentil
Molindone	Moban
Perphenazine	Trilafon
Piperacetezine	Quide
Prochlorperazine	Compazine
Promazine	Sparine
Thioridazine	Mellaril
Thiothixene	Navane
Thifluoperazine	Stelazine
Thiflupromazine	Vesprin

(2) No Consent by Department. The Department shall not consent to the administration of antipsychotic medication for any client, but shall in all cases seek parental consent or guardian's consent or prior judicial approval in every case where mood altering drugs are prescribed by a licensed physician.

11.15: Mood Altering Drugs

(1) Mood Altering Drugs. Mood Altering Drugs shall mean drugs which are used in treating major affective disorders including the diagnosis of Bipolar Disorder and/or Major Depression or other specific affective disorders. Mood altering drugs include the drugs below listed by whatever official name, common or usual name, chemical name or brand name they may be designated all isomers, esters, ethers, salts of, or any combination of, drugs listed below are deemed to be mood altering drugs. Such drugs shall include, but not be limited to:

Amitriptyline	Elavil
Imipramine	Tofranil
Desipramine	Pertofrane/Norpramin
Nortriptyline	Aventyl/Pamelor
Trazodone	Desyrel
Doxepin	Adapin/Sinequan
Amoxapine	Asendin
Maprotiline	Ludiomil
Trimipramine	Surmontil
Phenelzine	Nardil
Tranlycypromine	Parnate
Isocarboxazide	Marplan
Pargyline	Eutonyl
Lithium Carbonate	Cibalith
Eskalith	Lithane
Lithobid	Lithotane

(2) No Consent by Department. The Department shall not consent to the administration of mood altering drugs for any individual, but shall in all cases seek parental consent or guardian's consent or prior judicial approval for all clients.

11.16: Psychostimulants

(1) Psychostimulants include those drugs used to treat Attention Defect Disorder and/or Hyperactivity. Psychostimulants include the below listed drugs by whatever official name, common or usual name, chemical name or brand name they may be designated. All isomers, esters, ethers, salts of, or any combination of, drugs listed below are deemed to be psychostimulants. Such psychostimulants shall include but not be limited to:

Methylphenidate	Ritalin
Dextroamphetamine	Dexedrine
Pemoline	Cylert

(2) No Consent by Department. The Department shall not consent to the administration of psychostimulants for any individual, but shall in all cases seek parental consent or prior judicial approval for all clients.

11.17: Other Extraordinary Medical Treatment

(1) Recognizing that it is impossible to anticipate every extraordinary medical treatment, the Department shall utilize the following factors to determine whether a medical treatment is extraordinary:

- (a) Complexity, risk and novelty of the proposed treatment: The more complex the treatment, the greater the risk of death or serious complication, the more experimental the procedure, then the greater the need to determine that the treatment is extraordinary, and to obtain parental consent or to seek judicial approval prior to authorizing treatment.
- (b) Possible side effects: The more serious and permanent the side effect, the greater the need to determine that the treatment is extraordinary, and to obtain parental consent or to seek judicial approval prior to authorizing treatment.
- (c) Intrusiveness of proposed treatment: The more intrusive the treatment, the greater the need to determine that the treatment is extraordinary, and to obtain parental consent or prior judicial approval.
- (d) Prognosis with and without treatment: The less clear the benefit from the proposed treatment the greater the need for parental consent or prior judicial approval.
- (e) Clarity of professional opinion: The more divided the medical opinion, the greater the need for parental consent or prior judicial approval.
- (f) Presence or absence of an emergency: In a medical emergency a physician can act without anyone's consent.
- (g) Prior judicial involvement: If a court has been involved in past medical decisions, this argues for judicial involvement in any future medical treatment decision, but this is not conclusive.
- (h) Conflicting Interests: Where the interests of the decision maker conflict with the interests of the child, there is greater need for obtaining parental consent or prior judicial approval.

(2) No Consent by Department. The Department shall not give its consent to extraordinary medical treatment for any client. For all such clients, parental consent must be obtained or the Department shall seek prior judicial approval for any extraordinary medical treatment.

(3) Consent by Parent. The right to consent to extraordinary medical treatment shall remain with the parent(s) or guardian, except to the extent such right has been specifically limited by the legislature or by the ruling of a court or by written agreement between the parents and the Department of Social Services.

11.18: Legal Proceedings

(1) Whenever the Department may not consent to a medical procedure, but must seek prior judicial approval for such, the Department shall seek the appointment of a Guardian ad Litem to investigate whether such procedure should be administered, and thereafter report to the court.

11.18: continued

(2) At any subsequent hearing when the court is considering the question of whether such treatment ought to be administered, the Department shall not request that the court authorize the Department to consent to such treatment; but rather the Department shall request that the court, make the decision whether to authorize such treatment.

11.19: Confidentiality of Medical Records and Information

With respect to the medical records of a client. The release of medical records are governed by 109 CMR 3:00.

11.22: Medical Services for Committed Clients

(1) Within 30 days of a permanent commitment to the department, each client shall have a complete medical history, comprehensive physical and dental examination, identification of all acute and chronic problem and a plan for treatment of all acute and chronic problems in accordance with the Project Good Health (PGH) medical protocol and periodicity schedule.

(2) This information shall be recorded on a form approved by the Department.

(3) A copy of this form will be included in the clients regional case file, and the regional caseworker is responsible for arranging any necessary followup treatments indicated at the initial examination.

(4) A dental examination shall be arranged within 30 days of commitment and follow-up treatments as indicated shall be arranged by the caseworker. The Department will provide those dental services currently approved under the Massachusetts Medicaid Program, and which are provided by a dentist under contract with the Commonwealth of Massachusetts Medical Program. Results of each dental visit shall be included in the medical section of the regional case file.

(5) Results of each medical encounter shall be placed in medical section the regional case file.

(6) For clients in out-of-home placements, medical and dental examinations shall be repeated annually and in accordance with the PGH protocol. This shall be arranged by the caseworker and a copy of the updated medical record should be added to the medical section of the regional case file.

(7) It is policy of the Department to provide health care in a community setting using physicians and other health care providers who participate in the Medicaid Program and particularly in Project Good Health. If PGH providers are unavailable in a given locale or if an existing family physician is involved, or where a special medical consultation is needed, exceptions may be made. Exceptions may also be made to assure continuity of care for a youth with chronic illnesses who is under medical supervision upon commitment to the Department, or for care provided on-site in secure programs.

(8) Physical examinations of detained youths prior to commitment shall satisfy the requirement for physical examination at entry to the Department and need not be repeated. It shall be the responsibility of the caseworker to include this record in the regional case file and it shall be incorporated in the overall treatment plan when indicated.

(9) All medical and dental care for the committed client shall be funded through the Commonwealth's Medicaid Program. Where a clients family has private health insurance this must be used prior to medicaid or Department funding.

11.23: Medical Services for Detained Youths in DYS Facilities

(1) An admissions screening, referred to hereafter as Receiving/Screening, shall occur at the time of the arrival of the detained youth at the program and shall include the following:

(a) An initial screen for urgent psychiatric, medical needs, and suicide ideation.

(b) A visual inspection for signs of trauma, recent surgery, abscesses, open wounds, needle punctures, jaundice and communicable diseases.

This procedure shall be conducted by employing the DYS Receiving/Screening Form and the results shall be communicated to program health staff.

(2) Upon arrival at the unit, residents will be checked for lice and deloused only when diagnosed by the responsible health care authority, routine delousing is not authorized. Each detained youth shall have minimum medical services:

(3) Routine sick calls shall be provided either at the location of the shelter care or detention program or at a community based medical facility.

(4) When medical examinations and tests indicate the need for further tests or treatment and when a youth is transferred within the DYS system, this information and medications, etc. must be included in the Mobile Detention File

(5) When a client leaves the DYS system with outstanding medical problems, efforts should be made to advise the parents or guardian of this information.

(6) Elective treatments of a non-urgent type will generally not be provided unless placement in detention exceeds 45 days and/or the condition will worsen or cause permanent damage unless treatment is initiated during the detention period. Prior to carrying out any elective treatment, approval must be obtained from the Regional Director and written consent must be obtained from parent or guardian.

11.24: Medical Staffing

(1) Whenever possible, each facility shall have written agreement with a licensed physician, group practice, clinic or hospital for the supervision of medical care and treatment of youths during their confinement in the facility. Attempts to negotiate these agreements must be documented by the directors.

(2) Whenever possible each facility shall have a written agreement with a licensed dentist to provide routine and emergency dental care as needed. Attempts to negotiate these agreements must be documented by the director.

(3) Whenever possible each facility shall have a written agreement with a licensed psychiatrist, group practice, clinic or hospital for the supervision of psychiatric services as needed. The Department may enter into inter-agency agreements for this purpose. Attempts to negotiate these agreements must be documented by the director.

(4) The Department may employ or contract for such additional medical personal including registered nurses, licensed practical nurse, physician assistants or other health care providers as may be necessary.

11.25: Sick Call

Each facility shall schedule sick call for the purpose of providing clients the opportunity to receive or arrange for appropriate medical services. Sick call procedure shall be in writing, and shall be made part of the Unit Procedures Manual.

11.26: Emergency Care

(1) All facility personnel responsible for the care and custody of clients shall be trained in emergency first-aid procedures.

11.26: continued

- (2) Each facility shall have to maintain a minimum of one first-aid kit located in a place accessible to all staff members.
- (3) Each facility shall have a written procedure accessing local emergency services.

11.27: Medical Isolation

Clients with infectious or communicable diseases, whenever possible, shall be isolated from the general population for the duration of the illness if ordered by the medical staff. During this period of isolation the client should be observed carefully to prevent psychological complications leading to depression and suicidal behavior.

11.28: Administration of Medication

- (1) Medications shall be dispensed by health care personnel or by facility staff members in accordance with established procedure.
- (2) Each facility administrator, in accordance with the facility's health staff, shall develop written plans and procedures, and provide space for the secure storage and controlled administration of all medications and drugs. Such written plans and procedures, and space and accessories shall include, but not be limited to the following:
 - (a) Secure cabinets, closets and refrigeration units;
 - (b) means for positive identification of the intended recipient of the prescribed medication;
 - (c) procedures for administering legally obtained drugs only in the dose prescribed and at the time prescribed;
 - (d) procedures for confirming the fact that the intended recipient has ingested the medication;
 - (e) a procedure for recording the fact that the prescribed dose has been administered and by whom;
 - (f) a procedure whereby adverse reactions are reported to the health staff at once and noted in the youth's record;
 - (g) a procedure for transfer of medication and medical records at the time of a youth's release or transfer;
 - (h) a procedure whereby youth's refusals of medications are reported to the health staff and noted in the medical record;
 - (i) a procedure insuring that no youth is deprived of medication as prescribed for disciplinary reasons;
 - (j) a procedure whereby the health staff is contacted prior to the next medication administration time for instructions on all newly admitted youth who are either in possession of medications or indicate a need for such.

11.29: Medical Records

- (1) Each facility shall maintain a medical record for each youth committed or detained for more than seven days at that facility.
- (2) The medical record shall include:
 - (a) a report of the admission history and general medical condition including disabilities and limitations;
 - (b) a report of all subsequent physical examinations;
 - (c) reports of all laboratory tests;
 - (d) instructions for the youth's care;
 - (e) written orders for all treatments, special diets, restrictions on activity and medications including dosage and duration;
 - (f) progress notes;
 - (g) condition on release or transfer or cause of death.
 - (h) any other pertinent information.

11.30: Biomedical Research

Biomedical human experimentation or research involving any individual in the care and custody of the Department is generally prohibited. Exceptions may be made on a case-by-case bases as determined by Department's Director of Health Services in consultations with physicians if the disease or condition is likely to be fatal and no safe and effective treatments are available. Informed consent for participation in experimental treatments is required from parent or guardian and client.

REGULATORY AUTHORITY

109 CMR 11.00: M.G.L. c. 18A.